

House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 24

HOUSE BILL 2086

AN ACT

AMENDING SECTION 33-422, ARIZONA REVISED STATUTES; RELATING TO CONVEYANCES
AND DEEDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-422, Arizona Revised Statutes, is amended to
3 read:

4 33-422. Land divisions; recording; disclosure affidavit

5 A. A seller of five or fewer parcels of land, other than subdivided
6 land, in an unincorporated area of a county and any subsequent seller of such
7 a parcel shall furnish a written affidavit of disclosure to the buyer, at
8 least seven days before the transfer of the property, and the buyer shall
9 acknowledge receipt of the affidavit.

10 B. The affidavit must be written in twelve point type.

11 C. No release or waiver of a seller's liability arising out of any
12 omission or misrepresentation contained in an affidavit of disclosure is
13 valid or binding on the buyer.

14 D. The buyer has the right to rescind the sales transaction for a
15 period of five days after the affidavit of disclosure is furnished to the
16 buyer.

17 E. The seller shall record the executed affidavit of disclosure at the
18 same time that the deed is recorded. The county recorder is not required to
19 verify the accuracy of any statement in the affidavit of disclosure. A
20 subsequently recorded affidavit supersedes any previous affidavit.

21 F. The affidavit of disclosure shall meet the requirements of section
22 11-480 and follow substantially the following form:

23 When recorded mail to:

24 _____
25 _____
26 _____
27 _____

28
29 Affidavit of Disclosure
30 Pursuant to A.R.S. §33-422

31
32 I, _____ (seller(s))
33 being duly sworn, hereby make this affidavit of disclosure
34 relating to the real property situated in the unincorporated
35 area of:

36 _____, County, State of Arizona, located at:

37 _____
38 and legally described as:

(Legal description attached hereto as exhibit "A")

(property).

1. There ☐ is ☐ is not....legal access to the property, as defined in A.R.S. § 11-809....☐ unknown

Explain: _____

2. There ☐ is ☐ is not....physical access to the property.
☐ unknown

Explain: _____

3. There ☐ is ☐ is not....a statement from a licensed surveyor or engineer available stating whether the property has physical access that is traversable by a two-wheel drive passenger motor vehicle.

4. The legal and physical access to the property ☐ is ☐ is not....the same....☐ unknown ☐ not applicable.

Explain: _____

If access to the parcel is not traversable by emergency vehicles, the county and emergency service providers may not be held liable for any damages resulting from the inability to traverse the access to provide needed services.

5. The road(s) is/are ☐ publicly maintained ☐ privately maintained ☐ not maintained ☐ not applicable. If applicable, there ☐ is ☐ is not....a recorded road maintenance agreement.

If the roads are not publicly maintained, it is the responsibility of the property owner(s) to maintain the roads and roads that are not improved to county standards and accepted for maintenance are not the county's responsibility.

6. A portion or all of the property ☐ is ☐ is not....located in a FEMA designated regulatory floodplain. If the property is in a floodplain, it may be subject to floodplain regulation.

7. The following services are currently provided to the property: ☐ water ☐ sewer ☐ electric ☐ natural gas ☐ single party telephone ☐ cable television services.

8. The property is served by ☐ a private well ☐ a shared well ☐ no well. If served by a shared well, the shared well ☐ is ☐ is not....a public water system, as defined by the safe drinking water act (42 United States Code § 300f).

9. The property ☐ does have ☐ does not have an on-site wastewater treatment facility (i.e., standard septic or

alternative system to treat and dispose of wastewater).
□ unknown. If applicable: a) The property □ will □ will not .
. . . require installation of an on-site wastewater treatment
facility; b) The on-site wastewater treatment facility □ has
□ has not been inspected.

10. The property □ has been □ has not been subject to a
percolation test. □ unknown.

11. The property □ does □ does not...meet the minimum applicable
county zoning requirements of the applicable zoning designation.

12. The sale of the property □ does □ does not...meet the requirements
of A.R.S. § 11-809 regarding land divisions. If those requirements
are not met, the property owner may not be able to obtain a
building permit. The seller or property owner shall disclose each
of the deficiencies to the buyer.

Explain: _____

This affidavit of disclosure supersedes any previously recorded
affidavit of disclosure.

I certify under penalty of perjury that the information
contained in this affidavit is true, complete and correct
according to my best belief and knowledge.

Dated this ____ (date) ____ day of ____ (year) ____ by:

Seller's name (print): _____ Signature: _____

Seller's name (print): _____ Signature: _____

State of Arizona)
) ss.
County of _____)

Subscribed and sworn before me this ____ (date) ____ day of
____ (year) ____, by _____.

Notary public

My commission expires:

(date)

1 Buyer(s) hereby acknowledges receipt of a copy of this affidavit
2 of disclosure this _____ (date) _____ day of _____ (year) _____
3
4

5 Buyer's name (print): _____ Signature: _____
6
7

8 Buyer's name (print): _____ Signature: _____
9

10 G. For the purposes of this section, seller and subsequent seller do
11 not include a trustee of a deed of trust who is selling property by a
12 trustee's sale pursuant to title 33, chapter 6.1, or any officer who is
13 selling property by execution sale pursuant to title 12, chapter 9 and title
14 33, chapter 6. WHEN SELLER IS A TRUSTEE OF A SUBDIVISION TRUST AS DEFINED
15 IN SECTION 6-801 THE DISCLOSURE AFFIDAVIT REQUIRED BY THIS SECTION SHALL BE
PROVIDED BY THE BENEFICIARY OF THE SUBDIVISION TRUST.

APPROVED BY THE GOVERNOR APRIL 7, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 7, 2003.

Passed the House February 17, 2003

Passed the Senate April 1, 2003

by the following vote: 59 Ayes,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

0 Nays, 1 Not Voting

Jake Flake
Speaker of the House

Ken Bennett
President of the Senate

Norman L. Moore
Chief Clerk of the House

Charmine Benton
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

2 day of April, 2003

at 12:30 o'clock P M.

Sandra Hanif
Secretary to the Governor

Approved this 7 day of

April, 2003,

at 2³⁰ o'clock P M.

Jon R. Arpaia
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 17 day of April, 2003

at 4:27 o'clock P M.

Janice K. Brewer
Secretary of State

H.B. 2086